

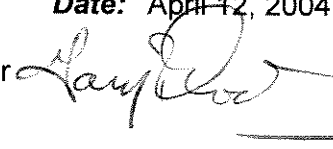
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**TOWN OF ACTON**

**Building Department**

**INTERDEPARTMENTAL COMMUNICATION**

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**To:** Board of Selectmen **Date:** April 12, 2004  
**From:** Garry A. Rhodes, Building Commissioner   
**Subject:** Site Plan Special Permit #04/04/03-390  
816 Main Street (Hunter)

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The Board is in receipt of a letter from Mr. Pittorino questioning my March 16<sup>th</sup> letter to him. I wrote the March 16<sup>th</sup> letter after observing what I felt may be a violation of the Site Plan Special Permit. I noted that he had failed to remove either the foundation or the crushed blocks left over from the demolition of the building. I also observed he was depositing or allowing to be deposited material that contained concrete and other debris. The Decision has both a **Finding and Concusions** #1.6 and **Condition** # 3.3 that address these issues.

- 1.6 The existing site is an active construction yard. The site is currently a "21E" site under the Massachusetts Contingency Plan. There is significant outdoor storage of what appears to be abandoned construction debris. When the site is redeveloped all debris shall be removed in conjunction with the cleanup requirements of the Department of Environmental Protection.
- 3.3 No debris shall be buried on site.

I am requesting the Board clarify if all construction material including the foundation must be removed from the site or allowed to remain subject to the following. I have spoken with the Board of Health, Natural Resources Director and Engineering Department (comments attached). If the Board is not concerned by the burial of the foundation and demolition material the following conditions could be attached.

- 1.) Any material placed on site meet the requirements of the Board of Health.
- 2.) The Engineer of Record oversees the placement of material so as to insure proper compaction and compliance with the plan approved by the Board.
- 3.) A Structural Engineer approves the placement of material where the locations of the buildings are shown.
- 4.) Any material placed within the 100 foot wetlands buffer meet the requirements of the Conservation Commission.

**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9628  
Fax (978) 264-9630

**Engineering Department**

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**INTERDEPARTMENTAL COMMUNICATION**

**To:** Garry Rhodes

**Date:** April 7, 2004

**From:** Engineering Department

**Subject:** Site Plan 4/4/03-390  
816 Main Street

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On 4/16/04 I inspected the fill being placed on 816 Main Street. There was a small pile of wood, stumps and trash off to the side which looks like it is going to be removed from the site. The remaining material is broken concrete blocks and some asphalt containing a small amount of scrap metal and plastic.

The Massachusetts Highway Department uses "reclaimed pavement borrow" material and has a specification for it. Generally the specification calls for the mixing of the concrete with gravel and the removal of trash. While the material on the site does not meet this standard it can be made to be suitable. If the material is processed to meet the Mass Highway standard I would certainly have no problem with its being used under the paved areas. If the owner is going to use this material without processing it to the Mass Highway standard I would suggest you require that his engineer certify it is acceptable for its intended use.

Sincerely,  
Bruce M. Stamski, P.E.  
Director of Public Works



## ACTON BOARD OF HEALTH

Douglas Halley  
Health Director

472 Main Street  
Acton, MA 01720

Telephone 978-264-9634  
Fax 978-264-9630

April 9, 2004

Felix Pittorino  
81 Newtown Road  
Acton, Ma 01720

Dear Mr. Pittorino:

At the request of the Building Commissioner, an Agent of the Acton Board of Health made a visual inspection of your property at 816 Main Street to determine your compliance with 310 CMR 16.05 regarding the burial of concrete and asphalt debris. During the inspection, the Agent noted multiple piles of debris.

- The northeastern pile at the rear of the site was composed of large (more than 1' in length) pieces of granite.
- The northwestern pile at the rear of the site was composed of large boulders, soil, stumps and other debris.
- The concrete foundations for all of the structures that were previously on the site were still in place, and some were covered by soil and mulch.
- The southeastern pile at the front of the property seemed to be the remnants of the building that once occupied the site. Most of the pieces of concrete were between 6" and 12" in length.
- While the Agent was on site, a landscaper stopped and offloaded a truck load of soil at the front of the property. This soil was dumped in an area with other similar soil piles.
- The southwestern pile at the front of the property is composed of rubbish and solid waste. This includes a compressed gas cylinder, the remnants of an appliance and a portable fuel tank.

In accordance with MGL Ch. 111, Sect. 122, you are required to remove the southwestern pile at the front of the property which is composed of rubbish and solid waste, as it is a nuisance to the public health.

The Board of Health requests that you schedule a time where test pits may be excavated throughout the site to determine the compliance with 310 CMR 16.05 at the site.

If you have any questions, please contact the Health Department at (978) 264-9634.

Sincerely,



Doug Halley  
Health Director

Cc: Brent L. Reagor, R.S., Environmental Health Sanitarian  
~~Garry Rhodes, Building Commissioner~~  
Tom Tidman, Natural Resources Administrator

81 Newtown Road  
Acton, MA 01720

March 23, 2004

Board of Selectman  
Town of Acton  
Main Street  
Acton, MA 01720

Re: 816 Main Street

Dear Selectmen:

We have demolished the existing building at 816 Main Street and have disposed of the debris.

We left the cinder blocks and crushed them to be used as roadway base, which will be covered with an additional 4 feet of fill. This is acceptable with the engineering department. However because of the wording in the approval, Mr. Rhodes says we need the Selectmen to agree that crushed cinder blocks are not considered debris. We are asking that the Board of Selectmen please confirm this at your earliest convenience.

Sincerely,



Phil Pittorino

Cc: Garry Rhodes



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9632  
Fax (978) 264-9630

**Building Department**

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March 16, 2004

Philip Pittorino  
81 Newtown Road  
Acton, MA 01720

Re; SPSP #04/04/03 – 390  
816 Main Street

Dear Mr. Pittorino,

On July 14, 2003 the Board of Selectmen issued you a Site Plan Special Permit (attached) for the property located at 816 Main Street. I am concerned you may be placing yourself in violation of conditions of the Decision by not removing all debris from the site. I have observed debris associated with the demolition of the building remaining on site. You have crushed what appears to be cement/cinder blocks and they also remain on site. You have allowed fill to be brought to the site with construction debris in it. Consistent with the Decision, all debris must be removed prior to a building permit being issued.

Sincerely,

Garry A. Rhodes  
Building Commissioner

Cc. Board of Selectmen

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**DECISION** of the Board of Selectmen (hereinafter the Board) on the petition of Philip Pittorino (hereinafter the Petitioner) for the property located at 816 Main Street Acton, Massachusetts. Said property is shown on Acton Town Atlas Map C-5 Parcel 59.

This Decision is in response to an application submitted to the Board on April 04, 2003 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to raze the existing building and construct four personal storage buildings with associated parking.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on June 2, 2003 at 7:15 PM and continued at the request of the Petitioner until June 23, 2003 at 7:30 PM in the Selectmen's Hearing Room at the Acton Town Hall. Board members Walter Foster, Trey Shupert III, Peter Ashton, F. Dore Hunter and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

#### **Exhibit I**

A properly executed application for Site Plan approval received April 04, 2003, a booklet containing a certified abutters list, USE description, other permits, record plan, drainage calculations earth removal calculations, water balance calculations and a traffic impact assessment. Four-sheet set of engineered plans dated April 03, 2003 revised June 4, 2003. A landscape plan dated April 3, 2003 and five sheets of building plans dated January 31, 2003.

#### **Exhibit II**

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated June 19, 2003
2. Town Planner dated April 30, 2003
3. Fire Chief dated May 16, 2003
4. Municipal Properties Director dated April 15, 2003
5. Engineering Administrator dated May 2, 2003
6. Health Department dated April 14, 2003
7. Transportation Advisory Committee dated May 9, 2003
8. Recreation Director dated April 29, 2003
9. Water Supply District dated April 16, 2003

Exhibit I is hereinafter referred to as the Plan

#### **1.0 Findings and Conclusions**

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in Small Manufacturing Zoning District and Zone 3 of the Groundwater Protection District and the USE is allowed in both the Small Manufacturing Zoning District and Zone 3.

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- 1.2 The Engineering Department noted the monuments were missing along Main Street. The Petitioner has agreed to replace the monuments and certify the location of the monuments.
- 1.3 The Plan provides for a suppression system for the two larger buildings as required by MGL Chapter 148 section 26G. The Fire Chief recommended the remaining two buildings also have a suppression system. The Board also agrees the buildings should have a suppression system however, based on the limitations of MGL 148 and the Massachusetts State Building Code can only recommend the Petitioner consider the Fire Chief's request. The Fire Chief will require the location of the fire hydrant to be relocated adjacent to the access driveway on the right side. The Board agrees with this requirement.
- 1.4 The Plan was revised to include a sidewalk along the frontage. The sidewalk will be located partially outside of the street layout and will require an easement. The Petitioner has agreed to provide a plan and agreement acceptable to the Town.
- 1.5 The Plan provides 15 parking spaces. The remainder of the impervious areas is needed for maneuvering therefore no outdoor storage will be allowed either on impervious areas or open space.
- 1.6 The existing site is an active construction yard. The site is currently a "21E" site under the Massachusetts Contingency Plan. There is a significant outdoor storage of what appears to be abandoned construction debris. When the site is redeveloped all debris shall be removed in conjunction with the cleanup requirements of the Department of Environmental Protection.
- 1.7 The site has a natural low spot adjacent to Capizzi along Main Street. The Board is concerned about possible ponding at that location. The Board finds the Plan shall indicate a swale. The Engineer of record shall also as part of their certification indicate the site functions as designed.
- 1.8 The Plan as herein modified:
  - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
  - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
  - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
  - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
  - Is consistent with the Master Plan.
  - Is in harmony with the purpose and intent of this Bylaw.
  - Will not be detrimental or injurious to the neighborhood in which it is to take place.
  - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

## 2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building

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Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1 Relocate the fire hydrant to the right side of the access driveway.
- 2.2 Label the swale adjacent to Capizzi's site.

### 3.0 Conditions

- 3.1 No outdoor storage.
- 3.2 The monuments shall be replaced and certified prior to occupancy of any building.
- 3.3 No debris shall be buried on site.
- 3.4 Provide an easement for the sidewalk, approved by the town, prior to occupancy.
- 3.5 The outdoor lighting shall be approved by the Building Commissioner prior to occupancy.
- 3.6 The site shall comply with the Town of Acton Hazardous Material Control Bylaw.
- 3.7 Prior to occupancy or use of any new building constituting a part of the project, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor. The swale shall be inspected to insure no ponding shall occur along Main Street.

### 4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.



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- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on July 14, 2005 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

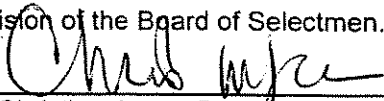
5.0 Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this 14 day of July, 2003

  
Walter Foster, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

  
Christine Joyce, Recording Secretary

July 15, 2003  
Date filed with Town Clerk

  
Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Philip Pittorino has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Edward J Ellis, Town Clerk

cc: Petitioner  
Building Commissioner  
Planning Board  
Engineering  
Conservation  
Director of Municipal Properties  
Board of Health  
Town Clerk  
Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury